

**REMARKS**

Claims 1-8, 10 and 12-14 are pending, of which claims 1, 10, 18, 21, 22, 23 and 24 are independent. Claims 1, 10, 18, 21, 22, 23 and 24 are amended. Support for the amendments can be found throughout the Specification and at least at page 6, lines 26-28; page 8, lines 4-7 and 22-25. No new matter has been introduced. Applicants respectfully submit that the foregoing claims define over the cited references. Accordingly, Applicants respectfully request the Examiner to pass the application to allowance.

**I. Objection to the Claims**

In the Office Action, the Examiner asserts that the particular sections of the Specification cited by Applicants as support for the amendments presented in the previous Response to Office Action merely describe storing the protection program on the optical medium itself. The Examiner asserts that the cited sections do not appear to disclose how the claimed “searching” is actually accomplished from the optical medium itself (Office Action, page 2).

Applicants respectfully note that as further recited in the Specification, the protection program, which is stored on the optical medium, checks a normal file that is expected to be on the optical medium (Specification, page 8, lines 5-7). Accordingly, Applicants respectfully submit that in the present application, the protection program, saved on the optical medium, checks for a file on the optical medium. That is, the protection program stored on the optical medium is accessed from the optical medium to search for a file.

Nevertheless, Applicants amend the pending claims to expedite the prosecution of the present application. Amended claims recite *searching, using the protection program residing on the optical medium, for a file on the optical medium*. Accordingly, amended claims provide that the protection program is stored on the optical medium and search for a file on the optical medium *while residing on the optical medium*.

Applicants believe that the amendments address the Examiner’s concerns. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the objection to the claims.

## II. Rejection of Claims under 35 U.S.C. §103

Claims 1-8, 10 and 12-24 have been rejected under 35 U.S.C. §103(a) as being anticipated by U.S. Pre-Grant Patent Publication No. 2004/0133523 to Inokuchi et al. (hereinafter “Inokuchi”) in view of U.S. Pre-Grant Patent Publication No. 2005/0223240 to Miles (hereinafter “Miles”) (Office Action, page 3, § 4). Applicants respectfully traverse the rejection with following remarks.

### A. Claim 1

Applicants respectfully submit that Inokuchi, alone or in any reasonable combination with Miles, does not disclose or suggest at least the following feature of claim 1: *searching, using the protection program residing on the optical medium, for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program.*

The Examiner correctly indicates that Inokuchi does not disclose that the protection program first stored on the optical medium and later accessed from the optical medium itself (Office Action, page 4). The Examiner further indicates that Inokuchi strongly suggests that the determining program is stored on the original disc along with the protect software and then loaded on to the computer when it is initially accessed (Office Action, page 4). That is, Inokuchi does not disclose or suggest *searching, using the protection program residing on the optical medium, for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program*, as provided in Applicants’ claim 1.

The Examiner asserts that Miles discloses an optical medium which stores a protection program, that is directly accessed from the optical medium each and every time the optical medium is loaded (Office Action, page 4). However, Miles, alone or in any reasonable combination with Inokuchi, also fails to disclose or suggest *searching, using the protection program residing on the optical medium, for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program*, as required by Applicants’ claim 1.

Miles indicates that a disc contains hidden software that is activated when the computer operating system first accesses the disc. The software instantiates a memory resident supervisory program that monitors access to the protected disc. When the disc is removed, the supervisory program is removed from the memory of the PC (Miles, paragraph [0048]). That is, Miles discusses an optical medium containing hidden software. The hidden software is activated when the computer operating system accesses the optical medium. The hidden software of Miles is removed when the optical medium is removed from the computer.

However, Miles, alone or in any reasonable combination with Inokuchi, fails to disclose or suggest that the hidden software stored on the optical medium *searches for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program*. Miles, similar to Inokuchi, discusses a secondary software stored on the optical medium along with the protected software. However, both references, alone or in any reasonable combination, fail to disclose or suggest that the secondary software that resides on the optical medium *searches for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program*, as required by Applicants' claim 1.

Moreover Miles does not use the hidden software stored on the optical medium for protection purposes. That is, the hidden software of Miles is not a *protection program residing on the optical medium with the software program*, as recited in Applicants' claim 1. The hidden software of Miles *instantiates* a memory resident supervisory program that resides on the PC, as opposed to on the optical medium. Miles further indicates that the supervisory program is *removed* from the PC when the disc, i.e. the optical medium, is removed. As such, Miles, similar to Inokuchi, teaches monitoring the protected program using a software program *residing on the computer*. In contrast, Applicants' claim 1 recites *searching, using the protection program residing on the optical medium, for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program*. Inokuchi, alone or in any reasonable combination with Miles, fails to disclose or suggest this claim element.

In light of the foregoing remarks, Applicants respectfully submit that the cited references do not disclose or suggest each and every feature of Applicants' claim 1. Accordingly, Applicants respectfully request that the 35 U.S.C. § 103(a) of claim 1 be withdrawn.

#### B. Claims 2-8

Claims 2-8 depend from and incorporate all the features of claim 1. As such, claims 2-8 are allowable for at least the same reasons as set forth above for claim 1. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 2-8 under 35 U.S.C. § 103(a).

#### C. Claims 10 and 12-17

Applicants respectfully submit that Inokuchi, alone or in any reasonable combination with Miles, does not disclose or suggest at least the following feature of claim 10: ***checking, using the protection program residing on the optical medium, the media type of the optical medium by examining a mode parameter header of the optical medium once the file has been located, the mode parameter header containing a media type code field.***

Inokuchi discusses checking the table of contents (TOC) data of a disc to determine whether the disc is a reproduction-only disc or a writable disc (Inokuchi, paragraph [0034]). The TOC data represents information with respect to the recording on the disc (Inokuchi, paragraph [0034]). Accordingly, TOC data is not equivalent to a mode parameter header of the optical medium that contains a media type code field. Specifically, the TOC data relates to the *recording* on the optical medium while the mode parameter header of the optical medium relates to the *media type* of the optical medium.

In addition, Inokuchi indicates that Figure 6B illustrates the structure of TOC data (Inokuchi, paragraph [0022]). As illustrated in Figure 6B, the TOC data does not contain a media type code field. As such, TOC data of Inokuchi is not equivalent to the mode parameter header recited in Applicants' amended claim 10. Accordingly, Inokuchi fails to disclose or suggest *checking, using the protection program residing on the optical medium, the media type of the optical medium by examining a mode parameter header of the optical medium once the*

*file has been located, the mode parameter header containing a media type code field, as recited by Applicants' amended claim 10.*

Miles fails to cure the shortcomings of Inokuchi with respect to *checking, using the protection program residing on the optical medium, the media type of the optical medium by examining a mode parameter header of the optical medium once the file has been located, the mode parameter header containing a media type code field*, as recited by Applicants' amended claim 10.

Miles, similar to Inokuchi, discusses TOC of optical media. In Miles, a compact disc (CD) carries a first session that contains a Lead-in, a program area containing one or more tracks, and a Lead-out. The tracks may all be audio tracks or data tracks. The Lead-in includes a table of contents (TOC), containing the absolute times (ATIME) of the start of each track and of the Lead-out, and identifying the type (i.e. audio or data) of each track (Miles paragraph [0027]). However, Miles is silent about examining a mode parameter header of a CD. Specifically, Miles, alone or in any reasonable combination with Inokuchi, fails to disclose or suggest *checking, using the protection program residing on the optical medium, the media type of the optical medium by examining a mode parameter header of the optical medium once the file has been located, the mode parameter header containing a media type code field*, as recited by Applicants' amended claim 10.

In light of the foregoing remarks, Applicants respectfully submit that the cited references do not disclose or suggest each and every feature of Applicants' claim 10. Accordingly, Applicants respectfully request that the 35 U.S.C. §103(a) of claim 10 be withdrawn.

Claims 12-17 depend from and incorporate all the features of claim 10. As such, claims 12-17 are allowable for at least the same reasons as set forth above for claim 10. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 12-17 under 35 U.S.C. § 103(a).

D. Claims 18-21 and 23

Independent claims 18, 21 and 23 recite *searching, using the protection program residing on the optical medium, for a file on the optical medium prior to determining a media type of the optical medium, the file containing the software program.*

In light of the remarks provided with respect to claim 1, Applicants respectfully submit that Inokuchi, alone or in any reasonable combination with Miles, does not disclose or suggest each and every feature of claims 10, 18 and 23. Claims 19-20 depend from claim 18 and, as such, incorporate each and every feature of claim 18. As such, claims 19-20 are allowable for at least the same reasons as set forth above for claim 18. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 18-21 and 23 under 35 U.S.C. § 103(a).

E. Claim 22

Independent claim 22 recites *checking, using the protection program residing on the optical medium, the media type of the optical medium by examining a mode parameter header of the optical medium once the file has been located, the mode parameter header containing a media type code field.*

In light of the remarks provided with respect to claim 10, Applicants respectfully submit that Inokuchi, alone or in any reasonable combination with Miles, does not disclose or suggest each and every feature of claim 22. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claim 22 under 35 U.S.C. § 103(a).

F. Claim 24

Applicants respectfully submit that Inokuchi, alone or in any reasonable combination with Miles, does not disclose or suggest at least the following feature of claim 24: *a protection program built on the ASPI layer of the optical medium.*

Inokuchi indicates that the software 14, i.e. an application program such as a game software or an installer, contains a determining program that determines the type of the disc

loaded into the drive (Inokuchi, paragraph [0030]). However, Inokuchi is silent about whether the determining program is *built on the ASPI layer of the optical medium*.

In fact, Inokuchi teaches away from the foregoing feature of Applicants' claim 24 by teaching that the application program contains the determining program. The application program, i.e. the software, is not built on the ASPI layer of a disc. As known in the art, the term "ASPI" stands for Advanced SCSI Programming Interface. ASPI is a universal driver layer that operates in between the software and the disc hardware. As such, ASPI does not contain the software. Accordingly, Inokuchi fails to disclose or suggest *a protection program built on the ASPI layer of the optical medium*, as required by Applicants' claim 24.

Miles fails to cure the shortcomings of Inokuchi with respect to *a protection program built on the ASPI layer of the optical medium*, as required by Applicants' claim 24. Specifically, Miles indicates that the disc contains a hidden software but fails to indicate where the hidden software is built on the disc (Miles, paragraph [0048]). Miles, alone or in any reasonable combination with Inokuchi, does not disclose or suggest *a protection program built on the ASPI layer of the optical medium*, as required by Applicants' claim 24.

In light of the foregoing remarks, Applicants respectfully submit that the cited references do not disclose or suggest each and every feature of Applicants' claim 24. Accordingly, Applicants respectfully request that the 35 U.S.C. §103(a) of claim 24 be withdrawn.

**CONCLUSION**

In light of the above amendments and arguments, Applicants respectfully submit that all of the pending claims are in condition for allowance. Should the Examiner feel that a teleconference would expedite the prosecution of this application, the Examiner is urged to contact the Applicants' attorney at (617) 227-7400.

Please charge any shortage or credit any overpayment of fees to our Deposit Account No. 12-0080, under Order No. MWS-107RCE3. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized to be charged to the aforementioned Deposit Account.

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Respectfully submitted,

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